

ORIGINAL

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

DEC 22 2005

at 11 o'clock and 5 min. a.m.
SUE BEITIA, CLERK

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& MATSUNAGA

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Attorneys for Plaintiff
RELiance INSURANCE COMPANY
(IN LIQUIDATION)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

RELiance INSURANCE
COMPANY
(IN LIQUIDATION), a Pennsylvania
corporation,

Plaintiff,

v.

THE DOCTORS' COMPANY, a
California corporation,

Defendant.

CIVIL CASE NO. CV 02-00159 HG-
BMK

**DECLARATION OF
CHRISTOPHER D. GLOS IN
SUPPORT OF RELiance
INSURANCE COMPANY'S (IN
LIQUIDATION) OPPOSITION TO
THE DOCTORS' COMPANY'S
MOTION TO VACATE
JUDGMENT AND DISMISS
COMPLAINT**

HEARING

Date: January 9, 2006

Time: 10:30 a.m.

Judge: Hon. Helen Gilmore

Judgment: February 13, 2004

Affirmed: May 26, 2005

I, CHRISTOPHER D. GLOS, hereby declare that:

I am an attorney licensed to practice law in all courts in the State of California. I am admitted *pro hac vice* before this Court and am an associate with the law firm of Kutak Rock LLP, attorneys for Reliance Insurance Company (in Liquidation) ("Reliance") in this matter. I declare under penalty of law that the following is true and correct.

1. Reliance incurred substantial attorneys' fees in opposing TDC's Motion to Vacate Judgment and Dismiss Complaint. Reliance requests the Court award attorneys' fees in the reasonable amount of \$21,702.50.

2. A federal court sitting in diversity applies the law of the forum state regarding an award of attorneys' fees and expenses. *See Kona Enter., Inc. v. Estate of Bishop*, 229 F.3d 877 (9th Cir. 2000) (applying Hawaii law to an award of attorneys' fees). As set forth in the Court's September 25, 2003 Order granting in part Reliance's Motion for Partial Summary Judgment, Hawaii law is applicable to this action. Hawaii law provides for the recovery of attorneys' fees and expenses "[w]here an insurer has contested its liability under a policy and is ordered by the courts to pay benefits under . . . the person who has acquired the rights of the policyholder . . . under the policy." H.R.S. § 431:10-242 (Bender 2003).

3. Mr. Paul Donsbach's usual and customary fee is \$250 per hour but he worked on this matter for a discounted rate of \$200 per hour. He expended in

excess of 40 hours in researching, analyzing, strategizing and writing the Opposition, and related documents, to TDC's Motion to Vacate Judgment and Dismiss Complaint.

4. Mr. Thomas Kenny's usual and customary fee is \$250 per hour on this matter but he worked on this matter for a discounted rate of \$200 per hour. He expended in excess of 15 hours in researching, analyzing, strategizing and writing the Opposition to TDC's Motion to Vacate Judgment and Dismiss Complaint.

5. My usual and customary fee is \$160 per hour on this matter. I have expended in excess of 56 hours in researching, analyzing, strategizing and writing the Opposition, and related documents, to TDC's Motion to Vacate Judgment and Dismiss Complaint.

6. Mason Martin of Kessner, Duca, Umebayashi, Bain & Matsunaga, local counsel for Reliance, has a usual and customary fee of \$145 on this matter. Mr. Martin has expended in excess of 6.5 hours in assisting with opposing TDC's Motion to Vacate Judgment and Dismiss Complaint.

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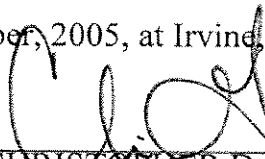
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7. It is anticipated that Mr. Donsbach will spend an additional three hours to prepare in opposing TDC's Motion at oral argument and another hour at the hearing.

I, CHRISTOPHER D. GLOS, declare under penalty of law that the foregoing is true and correct.

Executed this 22 day of December, 2005, at Irvine, California.


CHRISTOPHER D. GLOS